MONTANA LEGISLATIVE HISTORY

Chapter 15 19 71

Bill H 127 S _____ Original bill & history ___C

H. Committee on Ways & Means		S. Committee on Taxation	
Hearing Date(s) 1-18	✓C	Hearing Date(s) 1-28	✓C
_____	___C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

January 18, 1971

WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Walter Viner at 9:00 a.m. Roll call showed thirteen members present. (Absent Yardley, excused Healy)

The first bill to be heard this morning was H.B. 84, of which Rep. Himsl was principal sponsor. He stated this bill provides for uniform treatment of retirement income by exempting all retirement pensions or annuities not in excess of $3,600. Net affect would produce more revenue for Montana, but is not known how much. He closed by asking favorable consideration.

Mr. John Bell representing Montana Military Retirees spoke in regard to amending the bill. He felt the wording difficult to interpret but agreed with the principal of exempting the first $3,600.

There being no further testimony there was a brief discussion mainly on interpretation of the wording.

Rep. Fasbender, principal sponsor of H.B. 127 and 128 was next to speak. His prepared statements are attached and made a part of these minutes.

Howard Vralsted, State Board of Equalization merely stated that he felt Rep. Fasbender had fully covered any testimony he might have regarding these two bills.

The witnesses were then excused after which a brief discussion followed.

Rep. Keller moved H.B. 127 be reported out of committee DO PASS. Seconded and carried.

A motion was then made by Rep. Keller that H.B. 128 be reported out of committee DO PASS. Seconded and carried.

Rep. Giesick moved H.B. 47 DO PASS. This was seconded and discussed briefly. A vote was taken by a show of hands and failed. Rep. Keller then moved H.B. 47 DO NOT PASS. This was passed.

A motion was then made by Rep. Giesick that H.B. 48 DO NOT PASS. Seconded and carried.

Rep. Fasbender moved H.B. 49 DO PASS. A substitute motion was then made by Rep. Lundgren that H.B. 49 DO NOT PASS. This was seconded and discussed at some length. A vote was taken by a show of hands and failed. Rep. Swanberg then made a substitute motion that H.B. 49 be amended. He spoke briefly concerning the amended portions. A vote was taken and carried to amend the bill. Rep. Worden made the next motion that H.B. 49 be reported out of committee DO PASS with the following amendments. This was seconded and passed after the failure of a motion made by Rep. Kolstad that H.B. 49 as

☑ DO PASS
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

January 18 19 71

Bill Clerk

MR. SPEAKER

We, your committee on WAYS AND MEANS

having had under consideration HOUSE Bill No. 127

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 24-4303, R.C.M., 1947, TO PROVIDE FOR AN ALTERNATIVE TAX FOR NONRESIDENT TAXPAYERS WHEN SIX OR MORE FILMS ARE PRODUCED BY THE MULTISTATE TAX COMPACT."

Respectfully report as follows: That HOUSE Bill No. 127

DO PASS

ROLL CALL

WAYS AND MEANS COMMITTEE

42nd LEGISLATIVE SESSION 1971

DATE	1/7	8	12	13	14	15	1/1	18	19	20	21	22	25	26	27	28
Walter Ulmer - Chairman	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Gary Giesick, Vice Chairman	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Arnold Falkenstern	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
M. F. Keller	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Allen Kolstad	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
R. M. Lockwood	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Conrad Lundgren	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
E. O. Worden	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Larry Fasbender	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
John Healy	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Terry Murphy	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Bill Norman	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Gorham Swanberg	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Robert Watt	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Dan Yardley	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

EXPLANATION OF H.B. NO. 122

"AN ACT AMENDING SECTION 84-4903, R.C.M., 1947, TO PROVIDE FOR AN ALTERNATIVE TAX FOR NONRESIDENT TAXPAYERS BASED ON GROSS SALES AS REQUIRED BY THE MULTISTATE TAX COMPACT."

This bill has been prepared for the express purpose of meeting the obligation imposed upon all states which have adopted the Multistate Tax Compact under Article XII, Section 2 thereof. This section states, in part, "Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose entire volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of $100,000.00 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due."

This bill would establish, with respect to the Montana Individual Income Tax, the required alternative tax. Its provisions can apply only to nonresidents, since residents would be ineligible by virtue of the fact that their activities in this state necessarily exceed the qualifying requirements of the Multistate Tax Compact, and of this bill. Moreover, this bill specifically limits its application to nonresidents.

In our opinion, the effect of this bill on revenue would be negligible since very few nonresidents would be eligible to use the alternative tax, and the alternative tax rate of one-half of one percent of gross sales is at least equal to the existing income tax rates on taxable income realized under circumstances constituting the qualifying requirements of this bill. It is obvious, however, the bill can not generate additional revenue.

Refer Inquiries To:

VERNON B. MILLER
DIRECTOR OF ADMINISTRATION
BOARD OF EQUALIZATION
449-2460

EXPLANATION OF H.B. NO. 127

"AN ACT AMENDING SECTION 84-4903, R.C.M., 1947, TO PROVIDE FOR AN ALTERNATIVE TAX FOR NONRESIDENT TAXPAYERS BASED ON GROSS SALES AS REQUIRED BY THE MULTISTATE TAX COMPACT."

This bill has been prepared for the express purpose of meeting the obligation imposed upon all states which have adopted the Multistate Tax Compact under Article III, Section 2 thereof. This section states, in part, "Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of $100,000.00 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produced a tax which reasonably approximates the tax otherwise due."

This bill would establish, with respect to the Montana Individual Income Tax, the required alternative tax. Its provisions can apply only to nonresidents, since residents would be ineligible by virtue of the fact that their activities in this state necessarily exceed the qualifying requirements of the Multistate Tax Compact, and of this bill. Moreover, this bill specifically limits its application to nonresidents.

In our opinion, the effect of this bill on revenue would be negligible since very few nonresidents would be eligible to use the alternative tax, and the alternative tax rate of one-half of one percent of gross sales is at least equal to the existing income tax rates on taxable income realized under circumstances constituting the qualifying requirements of this bill. It is obvious, however, the bill can not generate additional revenue.

Refer Inquiries To:

VERNON B. MILLER
DIRECTOR OF ADMINISTRATION
BOARD OF EQUALIZATION
449-2460

January 28, 1971

The committee on Taxation met in room 402 at 9 A.M. on the above date. Roll call was taken, and with a quorum present, Chairman Nees called on discussion of the bills on the agenda.

Representative Fastender gave an explanation of House bills as exhibits. There being no further proponents, and no opponents, he was excused.

House bills 77 and 78 were reported on by Representative Dye who explained the reason for the two b ills was to correct the typing errors in a previous bill. There being no further opponents nor proponents, Representative Dye was excused.

HOUSE BILL 77: A motion by Senator Turnage, second by Senator Mathers that H. B. 77 be concurred in. Voted, passed.

HOUSE BILL 78: Moved by Senator Turnage, seconded by Senator Gilfeather that H. B. 78 be concurred in. Voted and passed.

HOUSE BILL 127: A motion by Senator Gilfeather, seconded by Senator McKeon that H. B. 127 be concurred in. Voted, passed.

HOUSE BILL 128: Moved by Senator McGowan, seconded by Senator McKeon that house bill 128 be concurred in. Voted, passed.

SENATE BILL 3: Moved by Senator McKeon, seconded by Senator Mc Gowan that Senate bill 3 be indef nately postponed. Voted, passed.

SENATE BILL 36: Motion by Senator McKeon, seconded by Senator Turnage that S. B. 36 be indefinately postponed.

SENATE BILL 87: Motion by Senator Turnage, seconded by Senator Mathers that S. B. 87 do not pass. Voted, passed.

SENATE BILL 179: Amendment discussed and presented by Senator Gilfeather. Motion by Senator McKeon, seconded by Senator Hanks to pass the amendment. Voted, passed. Motion by Senator Gilfeather seconded by Senator McKeon that S. B. 179 do pass as amended. Voted, passed.

The meeting was adjourned.

Senator Nees, Chairman

[illegible] to sec. 84-4903, R.C.M., 1947, to provide for an alternative [illegible] 1

[illegible] Montana Individual Income Tax Act to [illegible]

[illegible]

This bill has been prepared for the express purpose of meeting the obligation imposed upon all states which have adopted the Multistate Tax Compact under Article IV, Section 2 thereof. This section states, in part, "Each party state shall provide by law for the application of any combination thereof which imposes an income tax [illegible] by the Compact, a taxpayer required to file a return, whose only activities within the taxing state consist of sales of tangible personal property, and whose dollar volume of gross sales made during the tax year within the state of solicitation, as the case may be, is not in excess of $[illegible] may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due." 1/2 of 1% Gross Sales Vol?

This bill would establish, with respect to the Montana Individual Income Tax, the required alternative tax. Its provisions can apply only to nonresidents, since residents would be ineligible by virtue of the fact that their activities in this state necessarily exceed the qualifying requirements of the Multistate Tax Compact, and of this bill. Moreover, this bill specifically limits its application to nonresidents.

In our opinion, the effect of this bill on revenue would be negligible since very few nonresidents would be eligible to use the alternative tax, and the alternative tax rate of one-half of one percent of gross sales is at least equal to the existing income tax rate [illegible] income taxable would undoubtedly exceed the qualifying requirements of this bill. It is obvious, however, that [illegible] this bill can not generate additional revenue.

Peter Inquiries To:

VERNON B. MILLER
DIRECTOR OF ADMINISTRATION
BOARD OF EQUALIZATION
449-2460

☐ DO PASS
☐ DO NOT PASS
☒ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

January 28, 71

MR. PRESIDENT:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 127

84-4903

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 84-4903, R.C.M., 1947, TO PROVIDE FOR AN ALTERNATIVE TAX FOR NONRESIDENT TAXPAYERS BASED ON GROSS SALES AS REQUIRED BY THE MULTISTATE TAX COMPACT AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 127

BE CONCURRED IN

~~DO PASS~~

Board may correct errors.

(3) Should the board of equalization find that the statement contains errors which are not fraudulently inserted, it may correct the statement and approve it as corrected, or the board may require the claimant to file an amended statement. If the state board of equalization determines that any claim has been fraudulently presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the claim or affidavit is willfully false and made for the purpose of misleading, the board may reject such claim in full. If a claim is rejected, the board may suspend claimant's right to refund for a period not to exceed one (1) year.

Determination of fraudulent claims.

Rejection.

Suspension.

Permit—person desiring to claim refund.

(4) Any person, other than a licensed distributor, desiring to claim refund on gasoline purchased shall obtain a permit from the state board of equalization. The application for permit shall contain the applicant's name, address, occupation, nature of business, identification of machinery and equipment in which the taxable motor fuel is to be used, and any other information which may be required by the board.

Permit number.

Board shall keep records.

(5) Each permit issued shall bear a permit number and each claim filed shall bear the permit number of the claimant. The state board of equalization shall keep a record of all permits issued and a cumulative record of refunds claimed and paid thereunder.

$1.00 fee.

A fee of one dollar ($1) shall be collected from each person to whom a refund permit is issued. No refund shall be paid to any person unless said person has first secured a refund permit and paid said fee. The refund permit must be renewed and the license fee paid every five (5) years from the date of issuance.

Renewal and fee every 5 years.

Permit person desiring to sell gasoline subject to refund.

(6) Any person, other than a licensed distributor, shall obtain a permit from the state board of equalization prior to selling gasoline on which a refund may be claimed. The application for permit shall contain the applicant's name, address, place or places of business in the state of Montana, and other information which may be required by the board. Permits issued shall bear a permit number and the date of issuance. The board shall keep a record of all permits issued, canceled, or suspended. Permits shall be issued for the calendar year upon payment of a fee of one dollar ($1) and must be renewed annually before the first day of January.

Number and date.

$1.00 fee.

Penalties for violation.

Any person failing to comply with this subsection shall be subject to a fine of not less than twenty-five dollars ($25) or more than two hundred dollars ($200) or imprisonment in the county jail for a period not less than ten (10) days or more than sixty (60) days, or both fine and imprisonment."

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved February 2, 1971.

CHAPTER NO. 14

An Act to Prohibit Insurers from Cancelling a Professional Liability Insurance Policy or Increasing the Premium Rates Thereon Without First Providing the Insured Sixty (60) Days Notice in Writing Prior to Such Cancellation or Increase in Premium Rate.

Be it enacted by the Legislative Assembly of the State of Montana:

Insurer under professional liability policy shall not cancel or increase rates without 60 days prior notice.

Section 1. Any insurer who insures a physician and surgeon, dentist, registered nurse, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropracter, pharmacist, optometrist, or veterinarian, duly licensed as such under the laws of this state, or a licensed hospital as the employer of any such person against liability for error, omission, professional negligence, or performance of services without consent, shall not cancel the policy so insuring such person or increase the premium rates thereon without first providing the insured sixty (60) days written notice of the insurer's intention to cancel the policy or increase the premium rates.

Approved February 2, 1971.

CHAPTER NO. 15

An Act Amending Section 84-4903, R.C.M. 1947, to Provide for an Alternative Tax for Nonresident Taxpayers Based on Gross Sales as Required by the Multistate Tax Compact and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 84-4903, R.C.M. 1947, is amended to read as follows:

Tax imposed on non-residents based on net income from property in state.

"84-4903. **Tax on nonresident**—*alternative tax based on gross sales.* (a) A like tax is imposed upon every person not resident of this state which tax shall be levied, collected and paid annually, at the rates specified in section 84-4902, with respect to his entire net income as herein defined from all property owned and from every business, trade, profession, or occupation carried on in this state.

Nonresident taxpayeer may elect to pay ½ of 1% of gross sales.

(b) Pursuant to the provisions of article III, section 2, of the Multistate Tax Compact (Title 24, chapter 67, R.C.M. 1947), every nonresident taxpayer required to file a return, and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana, and whose annual gross volume of sales made in Montana during the taxable year do not exceed one hundred thousand dollars ($100,000), may elect to pay an income tax of one-half (½) of one percent (1%) of the dollar volume of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the taxes imposed under sections 84-4902 and 84-4902.1. The gross volume of sales made in Montana during the taxable year shall be determined according to the provisions of article IV, sections 16 and 17 of the Multistate Tax Compact."

Determination of gross volume under multistate tax compact.

Effective beginning January 1, 1971.

Section 2. This act is effective for taxable years beginning on and after January 1, 1971.

Effective immediately.

Section 3. This act is effective on passage and approval.

Approved February 2, 1971.

CHAPTER NO. 16

An Act to Amend Section 84-1501, R.C.M. 1947, to Provide for an Alternative Corporation License Tax Based on Gross Sales as Required by the Multistate Tax Compact and to Add a Corrective Statutory Reference and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-1501, R.C.M. 1947, is amended to read as follows: Amending clause.

"84-1501. **Corporation license tax—organizations exempt therefrom**—*alternative tax based on gross sales.* The term corporation includes associations, joint-stock companies, common law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided and except as provided in section 40-2821 (5), R.C.M. 1947, organized and existing under the laws of the state of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said state of Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, *and except as provided in section 40-2821 (5), R.C.M. 1947,* organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth.

In state corporations defined.

Annual license fee.

Out of state corporations.

License fee.

Computation—percentage of net income.

The percentage of net income to be paid under this section shall be six and one-quarter percent (6¼%) of all net income for the taxable period. The rate set forth in this act shall be effective for taxable years ending on or after February 28, 1969. For taxable years ending on or after February 28, 1971, the percentage of net income to be paid under this act shall be five and one-half percent (5½%) of all net income for the taxable period. Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than fifty dollars ($50).

Pursuant to the provisions of article III, section 2, of of the Multistate Tax Compact (Title 84, chapter 67, R.C.M.